IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5559 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

TOPLINE SHOES LTD.

Versus

REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

1. Special Civil Application No. 5559 of 2002
PARTY-IN-PERSON for Petitioner No. 1-2
MR BHARAT T RAO for Respondent No. 1

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 30/07/2002

ORAL JUDGEMENT

Rule. Mr. B.T. Rao, learned counsel for the respondent waives service of rule.

2. The petitioners have approached this Court with a request that E.P.F. Appellate Tribunal, New Delhi be

directed not to insist upon deposit of 75% of the amount stated to be outstanding on account of provident fund and other contribution in the impugned order. The petitioners have submitted stay application alongwith the appeal which has been filed before the Appellate Tribunal. The appeal as well as the application are pending disposal and hearing has been fixed on 6th August, 2002.

3. After hearing the party-in-person and Mr. B.T. Rao, learned counsel for the respondent and also going through the contents of the petition and other relevant record, it appears that on account of financial crunch experienced by the petitioners, they are not in a position to deposit the requisite amount. Insistence of deposit of the said amount therefore, would amount to denial of right of appeal to the petitioners. In view thereof, I am of the opinion that this is a fit case wherein the condition of pre-deposit of the 75% of the ordered amount be waived. In that view of the matter, the E.P.F. Appellate Tribunal is directed to hear the main appeal on 6th August, 2002 without insisting upon the deposit of 75% of the amount due as determined vide impugned order dated 3rd June, 1997 passed by the Regional Provident Fund Commissioner. The petitioners are also directed to cooperate in the hearing and not to seek any adjournment on that day. In view of this, the petition stands allowed. Rule made absolute to the aforesaid extent.

Writ of this order be despatched to the E.P.F. Appellate Tribunal, 60, Skaylark Building, Nehru Place, New Delhi - 110 019, forthwith.

[AKSHAY H. MEHTA, J.]

* Pansala.